IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 407 of 1999
in
SPECIAL CIVIL APPLICATIONNo 2804 of 1997
with
CIVIL APPLICATION No 6438 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JETEX CARBURATORS LIMITED

Versus

KANTIBHAI G. PAREKH

Appearance:

1. LETTERS PATENT APPEAL No. 407 of 1999
SINGHI & BUCH ASSO. for Appellant No.
MR TR MISHRA for Respondent No. 1-2
SERVED BY RPAD - (N) for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 07/10/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. The appellant-Jetex Carburators Ltd. has preferred this Letters Patent Appeal against the judgment and order dated 16.1.1999 passed by the learned Single Judge of this court (Coram : R.Balia, J.) in Special Civil Application No.2804 of 1997.

#. The appellant terminated the services of both the respondent-workmen, therefore, Industrial Dispute was raised before the Labour Court. The learned Judge, Labour Court, Godhra by his impugned judgment and award dated 6.8.1993 declared the termination of the respondent-workman bad and illegal and passed order of reinstatement that the respondents in service with full back wages and consequential benefits of service. This ex-parte judgment and award passed by the Labour Court was quashed and set aside by the Judge, Labour Court, Godhra by his impugned judgment and order dated 25.2.1997 on an application filed by the appellant under Rule 26-A of Gujarat Industrial Disputes Rules for quashing and setting ex-parte award.

#. Aggrieved of the aforesaid impugned judgment and order dated 25.2.1997 passed by Labour Court, Godhra quashing and setting aside the ex-parte award passed in favour of the respondents-workmen the respondents-workmen approached this court by way of Special Civil Application No.2804 of 1997. The said writ petition was allowed by learned Single Judge of this court on 16.1.1999 and the impugned judgment and award dated 25.2.1997 passed by the Labour Court, Godhra quashing and setting aside its ex-parte award dated 6.8.1993 was quashed and set aside and its ex-parte earlier judgment and award passed by the Labour Court was restored to the file. This order passed by the learned Single Judge allowing the writ petition of the respondents-workmen is challenged by the appellant in this Letters Patent Appeal.

#. Along with this appeal, Civil Application No.6438 of 2003 is filed. On this Civil Application, Division Bench of this court passed order directing the applicant-appellant company to deposit in all Rs.1,00,000/=, which has been already deposited with the Registrar of this court, as stated at the Bar by the learned counsel for the parties since 1999.

Unfortunately, it seems that the said amount was never deposited in the bank because the papers of the main appeal and civil application were missing in the office. Be that as it may.

#. We are not required to go into the legality and validity of the order i.e. 16.1.1999 passed by the learned Single Judge allowing the Special Civil Application No.2804 of 1997 filed by the respondents-workmen as the parties have agreed that this appeal be disposed of on the following terms and conditions :-

(i) The appellant-company principally agreed to pay in all Rs.3,50,000/= each to the respondents-workmen in lieu of the reinstatement and all other benefits of service in installments. As stated at the Bar by learned counsel Ms.Jani for the appellants Rs.1,00,000/= has been deposited by the appellant in all before the Registrar of this court. The said amount be paid to both the respondents-workmen in equal proportion i.e. Rs.50,000/= each by way of account payee cheque by the registrar of this court in the names of the respondents-workman immediately.

(ii) Remaining amount of Rs.3,00,000/= each to be paid in five equal monthly installments of Rs.60,000/=. The said installments of Rs.60,000/= will be paid on or before 15th of every month i.e. from October, 2003 to February, 2004 by the appellant-company to each of the respondents-workmen by way of account payee cheque in their name. First installment of Rs.60,000/= each will be paid to both the respondents-workmen on or before 15th October and rest of the installments will be paid on or before 15th of every month till February, 2004. All the cheques will be paid by the appellant-company at their residential address by Registered Post A.D. After receipt of the cheques, respondents-workmen will issue receipt for the same to the appellant-company.

(iii) As the judgment of the learned Single Judge is quashed and set aside in terms of the compromise arrived at between the parties, the reference proceedings filed by the respondents-workmen before the Labour Court also stand terminated.

(iv) As the proceedings have been terminated between the parties before the Labour Court in reference filed by the respondents-workmen, recovery applications filed in reference proceedings before the Labour Court stand terminated.

#. In view of the aforesaid clear understanding arrived at between by the parties, the judgment and order dated 16.1.1999 passed by the learned Single Judge of this court allowing the writ petition of the respondents-workmen is quashed and set aside. As the judgment of the learned Single Judge is quashed and set aside in terms of the compromise, the reference proceedings filed by the respondents-workmen before the Labour Court also stand terminated. As the proceedings have been terminated between the parties before the Labour Court, recovery applications filed in reference proceedings before the Labour Court stand terminated. However, it is made clear that if there is any breach on the part of the appellant in paying the amount in installments, as agreed upon, then the judgment and order dated 16.1.1999 passed by the learned Single Judge in Special Civil Application No.2804 of 1997 will automatically stand revived and it will be open to the respondents-workmen to execute that order.

#. It is also made clear that under no circumstances, the appellant company would be given any extension in the aforesaid installments.

#. The aforesaid compromise is arrived at between the parties i.e. respondents-workmen, who are personally present before the court as well as officers of the appellant-company viz. Mr.Harendra Kothari, Commercial Director and Mr.Narendra Shah, Chief Accountant of the appellant-company. Copy of this order be given to both Ms.Jani for appellant and Mr.Mishra for respondents-workmen for its implementation. The Registry shall pay account payee cheque of Rs.50,000/= to both the respondents forthwith.

#. Civil Application is disposed of in view of the aforesaid compromise arrived at between the parties. R & P be sent back to the Labour Court forthwith.

(B.J.Shethna, J.)

(Ravi R. Tripathi, J.)

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